

**Albrecht et al.****S/N: 10/604,237****REMARKS**

Claims 1-29 are pending in the present application. In the Office Action mailed February 18, 2005, the Examiner rejected claims 1, 5, 6, 9, 10, 18, and 19 under 35 U.S.C. §102(b) as being anticipated by the Japanese document no. JP60-64769A (JP60-64769A). The Examiner next rejected claims 8, 23-26, and 28 under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A. Claims 2, 21, and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A taken with Fronius (USP 4,521,672). Claims 20 and 27 were rejected under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A taken with Wilson (USP 3,458,681). Claims 3, 4, and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A taken with the German document no. G8308999.3UI (G8308999.3UI). Claim 22 was rejected under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A taken with Brugerolle et al. (USP 5,472,024). Claims 11-14, 16, and 17 were rejected under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A taken with G8308999.3UI, and further in view of Wilson. Claim 15 was rejected under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A taken with G8308999.3UI and Wilson, and further in view of Fronius.

The Examiner rejected claim 1 under 35 U.S.C. §102(b) as being anticipated by JP60-64769A. Applicant respectfully disagrees. Claim 1 calls for, in part, a gas cylinder constructed to deliver shielding gas from the gas cylinder upon connection of the gas cylinder to the welding-type apparatus. The abstract of JP60-64769A states that "[a] one touch type socket 29 is attached to a mouthpiece 19 of a bomb and a joint plug 22 is attached to piping of chamber 13." See abstract. JP60-64769A further states that "[t]he socket and plug are fitted to each other by one touch to communicate the bomb and the piping with each other" and that "[i]f a stop ring is shifted and pulled in the stage of removing the bomb, a stop valve is actuated automatically and the bomb is thereafter removed as desired." See abstract.

The abstract of JP60-64769A makes no reference to what has been labeled part number 24 in Fig. 5. Part Number 24 is shown disposed between joint plug 22 and chamber 13. Without a full translation of JP60-64769A, part number 24 clearly interrupts the flow of gas through pipe 23. As such, JP60-64769A does not disclose a welding-type apparatus having a gas cylinder constructed to deliver shielding gas upon connection of the gas cylinder to the welding-type device called for in claim 1.

The Examiner also rejected claim 18 as being anticipated by JP60-64769A stating that "JP60-64769A must necessarily be constructed in the manner claimed, i.e., ... a supporting system for the gas cylinders must be provided." Applicant respectfully disagrees. Claim 18 calls

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for, in part, a method of constructing a welding-type apparatus including providing a restraining system to support a gas cylinder by a body of the gas cylinder relative to a power source. While Applicant does not necessarily disagree that JP60-64769A discloses a welding device having multiple "bombs", there is no disclosure within the translated portions or the figures related thereto, for a restraining system to support a gas cylinder by a body of the gas cylinder. Fig. 4 appears to show multiple bombs supported by a plate positioned along the body of the bomb and restrained by a connection (detail A) to piping 13. That is, JP60-64769A appears to disclose a restraint at the connection of each bomb and a support positioned along a body of the bomb. This is not what is called for in claim 18. Claim 18 calls for, in part, a restraining system to support a gas cylinder by a body of the gas cylinder. That is, the restraining system supports the gas cylinders along a body of gas cylinders. Such a construction is not disclosed in JP60-64769A. Accordingly, claim 18 is not anticipated by JP60-64769A.

The Examiner rejected claim 24 under 35 U.S.C. §103(a) as being anticipated by JP60-64769A stating that "JP60-64769A discloses the subject matter claimed except for explicit mention of the opening and door of the claims" and that "[s]ince the gas cylinders in the Japanese document no. JP60-64769A cannot be loaded from the side, it is obvious that they are loaded from an opening in the rear of the housing...." Applicant respectfully disagrees.

Claim 24 calls for, in part, a welder-type device including a housing having an opening having a shape generally similar to a shape of the gas cylinder to allow passage of the gas cylinder therethrough. Even assuming *arguendo* that the Examiner's interpretation is ascertainable from the figures of JP60-64769A, such an interpretation does not teach or suggest that which is called for in claim 18. That is, the Examiner's interpretation requires that the opening have a shape that is similar to a shape of multiple bombs. The opening would need to be constructed to allow passage of the multiple bombs therethrough. Such an opening does not have a shape that is generally similar to the shape of a gas cylinder passed therethrough as called for in claim 24. As such, JP60-64769A does not include each and every limitation of claim 24 as is required under MPEP §2143.03 to support a *prima facie* obviousness rejection. As such, Applicant believes claim 24, and those claims that depend therefrom, are patentably distinct over JP60-64769A.

The Examiner rejected claim 11 under 35 U.S.C. §103(a) as being unpatentable over JP60-64769A in view of G8308999.3U1 and further in view of Wilson stating that "[i]t would have been obvious to have provided the Japanese document no. JP60-64769A with an external gas connection in view of the teachings of Wilson...." Claim 11 calls for, in part, a welder

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comprising a gas cylinder disposed within a power source configured to generate a welding-type power. The gas cylinder is connected to supply gas to a welding gun. The welder includes a gas path connectable to another gas container located remotely from the power source.

Wilson discloses an electrode assembly and electrode holder having a gas canister 34 and a valve 35 extending therefrom. See Fig. 8. The electrode assembly is incapable of generating a welding-type power and must have the welding-type power communicated thereto. There is no disclosure in Wilson for a welder having a gas cylinder disposed in a power source and a gas path connectable to another gas container as called for in claim 11. Additionally, the devices disclosed in JP60-64769A and G8308999.3U1 each only include bomb or a gas source, respectively, internal thereto. As such, the combination of references does not teach, disclose, or suggest a welder having a gas cylinder disposed therein and a gas path connectable to another gas container located remotely from the power source as called for in claim 11. Accordingly, Applicant believes claim 11, and those claims that depend therefrom, are patentably distinct over the art of record.

Should the Examiner find the above remarks unpersuasive as to the patentability of claims 1-29 over the art of record, Applicant requests a full translation of JP60-64769A as required under MPEP §706.02. As stated in MPEP §706.02, "[i]f the document is in a language other than English and the examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection." (Emphasis added). MPEP §706.02 further states "[b]ecause all patentability determinations are fact dependent, obtaining and considering full text documents at the earliest practicable time in the examination process will yield the fullest available set of facts upon which to determine patentability, thereby improving quality and reducing pendency."

As the learned Examiner is probably well aware, foreign patent abstracts may have different effective publication date than the full text document. It is further well founded that the full text document may include teachings away from the invention that will preclude an obviousness rejection under 35 U.S.C. 103, when the abstract alone appears to support the rejection. Upon the Examiner's review of the full text translation of JP60-64769A, should the Examiner maintain any or all of the rejections presented in the Office Action of February 18, 2005 based in whole or in part on JP60-64769A, Applicant cordially requests that any such rejections be presented in a non-final action to allow Applicant to fully reply to that which the Examiner asserts is disclosed in JP60-64769A.

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In light of at least the foregoing, Applicant respectfully believes that the present claims are patentably distinct over the art of record and that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-29.

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



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